

Board of Respiratory Care Minutes

Date: March 30, 2012

Time: 9:00 C.S.T.

Location: Poplar Conference Room, Ground Floor
227 French Landing Drive
Heritage Place, Metro Center
Nashville, TN 37243

Members Present: Candace Partee RRT, Chair
Ray Davis, RRT
Gene Gantt, RRT
Jeffrey McCartney, M.D.
Teresa Hatcher, Consumer Member

Member Absent: Roger Major, RRT, Secretary
Delmar Mack, RRT, Ed. D

Staff Present: Marva Swann, Board Director
Mary Katherine Bratton, Assistant General Counsel
Andrea Huddleston, Deputy General Counsel

Guests Present: Elaine Eaton, Tennessee Professional Assistance Program
David Johnson, Tennessee Society for Respiratory Care
Zack Gantt, RRT
Timothy R. Henion, MHA, RRT, President Elect TSRC
John Williams, Attorney, Tennessee Society for Respiratory Care
Michelle Long, JD, Assistant Commissioner, Dept of Health

With a quorum being present, Ms. Partee called the meeting to order at 9:10 a.m. Assistant Commissioner, Michelle Long and our new Assistant General Counsel, Mary Katherine Bratton were introduced to the Board and welcomed to the Department of Health.

Approval of Minutes

Dr. McCartney made a motion seconded by Mr. Gantt to approve the minutes of November 10, 2011 as presented. The motion carried.

Office of General Counsel

Rules Discussion

The Board discussed proposed language to amend Rule 1330-01-.12 concerning continuing education for reinstatement of retired, revoked, or an expired license. Depending upon whether or not a rule amendment can be filed in time with the Secretary of State's Office, a rulemaking hearing will be held at the next Board meeting in May to amend rule Rule 1330-01.06 (d) relative to licensure renewal fees. The Board would like to reduce fees due its substantial reserve fund.

Litigation

OGC currently has seven (7) open disciplinary cases pertaining to the Board of Respiratory Care of which the following six (6) were presented to the Board for review and disciplinary consideration.

Presentation of Legal Cases

First Presentation:

1. Case No.: 201200037

Respondent self-reported a DUI in his license renewal application. The DUI conviction occurred on August 10, 2011; he is a first time offender. Respondent states that he has "made all restitution with the state." Respondent's Criminal Conviction required forty-eight (48) hours in a work house, and places Respondent on probation for eleven (11) months and twenty-seven (27) days, as well as revoking his driver's license for one (1) year. Respondent is a Licensed Certified Respiratory Therapist who states he is not practicing.

Prior discipline: None

Recommendation: TnPAP evaluation and probation to run concurrent to the TnPAP contract but for a probationary period of not less than one (1) year.

After discussion Mr. Gantt made a motion seconded by Mr. Davis to approve the recommendation as presented. The motion carried.

2. Case No.: 201200461

Respondent self-reported a DUI. The DUI conviction occurred on November 5, 2011; she is a first time offender. Respondent states that she is embarrassed and extremely mad at herself for making such a poor decision, loves her job, and it is her only means of income. Respondent's Criminal Conviction places Respondent on probation for eleven (11) months and twenty-nine (29) days, as well as revoking her driver's license for one (1) year; however, she can apply for a restricted license. Respondent is a Licensed Certified Respiratory Therapist. She informed her employer of the incident and is currently under supervision until she has paperwork stating that her license is still in good standing.

Prior discipline: None

Recommendation: TnPAP evaluation and probation to run concurrent to the TnPAP contract but for a probationary period of not less than one (1) year.

After discussion, Mr. Gantt made a motion seconded by Dr. McCartney to approve the recommendation as presented. The motion carried.

3. Case No: 201002354

Complainant claims that at an in-service continuing education course she witnessed Respondent sign certificates of attendance for respiratory care employees under Respondent's direction who did not attend the in-service on two different occasions: once in 2008, and once in 2010. Eleven names were given as those who were not present but allegedly received credit. An investigation produced sworn statements by three of the individuals whose names were allegedly signed by Respondent, denying that the Respondent ever signed their names or gave them credit for education for which they were not in attendance. A fourth individual also denied the allegations. Respondent said she observes who is at the on-site, in-service, and that if someone tells her that he or she attended, she takes that person at their word. Employees who are scheduled to work during the time of the in-service are allowed to attend as their patient schedule permits. Respondent made a sworn statement that she never intentionally falsified in-service material. Respondent also stated that she had to terminate several employees in the recent past, resulting in some of them being unhappy with her. Complainant admitted to having been fired before coming forward with allegations, stating that the delay was due to a fear for her job security. Respondent also submitted a certified copy of the respiratory staffing schedule from the 2008 date of the in-service in question. Of those individuals who were named in the complaint as not being present, the schedule includes five. Of those five individuals only one is scheduled to work that day.

Prior discipline: None

Recommendation: Close [No Violation]

After discussion, Dr. McCartney made a motion seconded by Mr. Davis to approve the recommendation as presented. The motion carried.

4. Case No.: 201102432

Respondent tested positive for marijuana on a pre-employment urine drug screen. Respondent stated that it was a one-time use, while working in Alaska, due to his stress level at the time which was caused by housing and pet issues.

Prior discipline: None

Recommendation: TnPAP evaluation and probation to run concurrent to the TnPAP contract but for a probationary period of not less than one (1) year.

After discussion, Mr. Gantt made a motion seconded by Ms. Hatcher to approve the recommendation as presented. The motion carried.

Second Presentation:

5. Case No.: 201002356

This is an open case in the Office of General Counsel about which more facts have come to light and the office has entered a voluntary dismissal. Respondent applied for and received her license as a certified respiratory therapist in 2006. Later that year she received a criminal conviction for reckless driving. Respondent states that she self-reported her conviction on her 2008 renewal application. She was granted the renewal, but due to an administrative oversight, the renewal application was never scanned into the system and there is no physical record of it. In 2009 Respondent applied to be licensed as a registered respiratory therapist. Because of her previous criminal conviction for reckless driving, the board granted her a RRT license conditional upon a positive evaluation from TnPAP. Respondent failed to receive an evaluation from TnPAP until a full year later, so her Registered Respiratory Therapist license was never granted. The Office of General Counsel initiated a notice of charges against her CRT for noncompliance with a board order; however, the board order was the *condition* placed upon receipt of a RRT. Because Respondent never received a RRT, she cannot be disciplined on it.

Prior discipline: None

Recommendation: Close [No Violation]

After discussion, Mr. Gantt made a motion seconded by Mr. Davis to approve the recommendation as presented. The motion carried.

6. Case No. 201101895

Respondent violated a previous consent order by failing to maintain her contract with TnPAP and by failing to pay a civil penalty and costs. Respondent discontinued her contact with TnPAP because of extreme financial hardship. Respondent was unaware that TnPAP has financial assistance. TnPAP alerted the Board to Respondent's discontinuance and the Office of General Counsel initiated a notice of charges against her; however, there was no real violation of the Board Order, as it placed no time limit upon Respondent's completion of the program. Pursuant to the existing Board Order, Respondent's license is suspended and Respondent is not practicing. Respondent is currently attempting to reconnect with TnPAP.

Prior discipline: Previous Board Order, this case stems from its alleged violation.

Recommendation: Dismiss.

After discussion, Mr. Davis made a motion seconded by Mr. Gantt to approve the recommendation as presented. The motion carried.

Agreed /Consent Orders

- A. **Shannon Ferrell, CRT**—Ms Bratton presented an Agreed Order on Shannon Ferrell, CRT for violation of a Board order when she failed to maintain the advocacy of the Tennessee Professional Assistance Program after a previously issued order of the Board. Ms. Ferrell agrees to the voluntary surrender of her license to practice respiratory care in the State of Tennessee. After discussion, a motion was made by Mr. Gantt and seconded by Mr. Davis to approve the Agreed Order on Ms. Ferrell as presented. The motion carried.
- B. **Cynthia Cook, RRT**—Deferred.
- C. **Vincent G. Lemay, RRT**—Deferred.

Investigative Report

Juanita Stone, Disciplinary Coordinator, presented the Investigative report for January and February, 2012. There were no RRT complaints and one (1) CRT complaint currently being investigated.

Tennessee Professional Assistance Program Report

Report

Elaine Eaton, Representative of Tennessee Professional Assistance Program (TnPAP), submitted the report for the period of July 1, 2011 through December 31, 2011. Four (4) practitioners are currently being monitored. There were two (2) referrals from the Board. These referrals were made for a history of arrest. There were eleven (11) discharges during this period; one (1) evaluated and no monitoring agreement recommended, three (3) evaluated who rejected recommendations and were reported to TDOH, and seven (7) who were noncompliant with the monitoring agreement and were reported to TDOH.

Contract

The TnPAP contract with amendment was presented for approval. It was proposed that the sentence in Section A.3. (f)(2) of the contract which reads “The participant’s signature shall be acknowledged by at least one (1) witness” be deleted and replaced with “The participant shall sign on the line provided for his/her signature, acknowledging that (s)he has been informed of his/her rights.” After discussion, Mr. Davis made a motion seconded by Mr. Gantt to approve the contract as amended. The motion carried.

Applicant Interview/File Review

- A. **Thomas Donato**—Mr. Donato is seeking licensure as a registered respiratory therapist by reciprocity. He appeared before the Board to request a modification of the TnPAP agreement he entered following his appearance at the March, 2012 meeting. He specifically asked that the notification of prospective employers of his monitoring by TnPAP and the employer’s submission of quarterly reports to TnPAP be waived as it would negatively impact his obtaining employment. He also objected to random alcohol and drug screenings by TnPAP as he felt that this was not an issue relative to his referral to TnPAP. Elaine Eaton, TnPAP

Representative, explained the two year monitoring agreement signed by Mr. Donato. Ms. Eaton stated that there were two types of monitoring agreements offered by TnPAP—a chemical dependent contract and a non-chemical dependent contract. Both types of contract require that the individual being monitored refrain from the use of drugs and alcohol and that their job supervisor must be informed that they are being monitored and of the requirements of the contract. Mr. Donato is seeing a therapist and his contract would allow him to continue seeing his current therapist. After interview and discussion, Mr. Gantt made a motion seconded by Mr. Davis to approve Mr. Donato for licensure without any restrictions. The vote was taken by roll call:

Mr. Gantt—yes
Mr. Davis—yes
Ms. Partee—yes
Dr. McCartney—no
Ms. Hatcher—no

The motion carried. Mr. Donato will be issued a license without restrictions which rescinds the requirement of a monitoring agreement with TnPAP

- B. **Mary Burke**—Ms. Burke appeared before the Board due to a 2008 DUI conviction. She is seeking licensure as a certified respiratory therapist. After interview and discussion, Mr. Gantt made a motion seconded by Dr. McCartney to approve Ms. Burke for licensure. The motion carried.
- C. **Kayla Bostic**—Ms. Bostic appeared before the Board due to a 2009 DUI conviction. Ms. Bostic is currently serving probation for this offense which will expire 2/10/13. She was evaluated by TnPAP prior to the meeting. After interview and discussion, Mr. Gantt made a motion seconded by Mr. Davis to license Ms. Bostic contingent upon her compliance with all of TnPAP's recommendations. The motion carried.
- D. **John Windham**—Mr. Windham appeared before the Board due to findings on his criminal background check for incidents which occurred in 1994 and 1995. Mr. Gantt made a motion seconded by Mr. Davis to license Mr. Windham without restrictions in adherence to the Board's criminal misdemeanor policy regarding convictions that occurred ten years or longer prior to application. The motion carried.
- E. **Erica Richardson**—Ms. Richardson was not present. Her file was presented to the Board due to findings on her criminal background check of misdemeanor traffic violations. This information was received just prior to the meeting. After discussion, Mr. Gantt made a motion seconded by Dr. McCartney to license Ms. Richardson without restriction. The motion carried.
- F. **Kurrie Stewart**—Mr. Stewart was not present. His file was presented to the Board due to findings on his criminal background check of misdemeanor traffic violations. This information was received just prior to the meeting. After discussion, Mr. Gantt made a motion seconded by Dr. McCartney to license Mr. Stewart without restrictions. The motion carried.

Correspondence/Discussion

- A. **EMS Ventilator Training**—Mr. David Johnson, RRT, TSRC Representative, along with Zack Gantt, RRT presented a proposal to be made to the Emergency Medical Services Board regarding the training of EMS personnel who transport ventilator patients. This was an update of the proposal made at the RC and EMS Ad Hoc Committee meeting that was held on July 29, 2011. After discussion, it was decided to reinstate the Ad Hoc Committee with the addition of Ray Davis and Colleen Schabacker as members. The Respiratory Care and EMS Ad Hoc Committee meeting will be posted after consultation with all committee members as to a day and time for the meeting to be held.
- B. **National Board of Respiratory Care (NBRC) Credential Requirement for Arterial Blood Gas Analysis**—The Board discussed doing an audit to determine if licensees who perform ABG's are keeping their NBRC credential current. The Board instructed the administrative staff to find out if it would be possible to add questions to the renewal process online and on paper regarding criminal convictions, continuing education, and the status of a licensee's ABG credential. The postcard to all licensees informing them of the new polysomnography rules which will become effective on July 25, 2012 and of the necessity of maintaining a current ABG credential will be mailed as soon as possible.
- C. **Results from Board of Medical Examiners Meeting Re: Capillary Blood Gas Testing/Analysis By Polysomnographers**—The BME drafted an advisory opinion to be issued stating that while capillary blood gas analysis does not fall within the scope of practice for a polysomnographic technologist or technician as specified in T.C.A. §63-31-101, there is nothing that would prevent delegation of such duties by a physician to a licensee who has been appropriately trained in the necessary specimen collection and procedures with the supervising physician taking responsibility for ensuring that the delegate is sufficiently trained to perform those functions. The Board of Respiratory Care disagreed with this opinion. The BME decided not to issue an advisory opinion on the subject after Ms. Partee attended the BME meeting on March 27, 2012 and conveyed the Board's concerns regarding delegating capillary blood gas analysis to polysomnographers.
- D. **Gary Whaley, Sleep Professionals**—Mr. Whaley is the owner of a stand-alone sleep laboratory. He was concerned with the waiting period between his laboratory diagnosing a patient with the need for CPAP equipment and the equipment company sending the equipment for the patient. The Board determined that this was not within its jurisdiction. Ms. Bratton will send a response to Mr. Whaley.
- E. **Board Consultants**—Mr. Gantt made a motion seconded by Mr. Davis to have current Board members act as consultants for the Board. When a complaint is received, a member is to be contacted. All identifying information is to be removed from the file. The member along with the Board's attorney will have the authority to resolve the complaint. All complaints that need further discussion will come before the full Board. The motion carried.

Ratifications

Mr. Gantt made a motion seconded by Mr. Davis to approve all of the following licensure lists of registered respiratory therapist and certified respiratory therapist applicants for initial, reinstatement, and polysomnography endorsement. The motion carried.

REGISTERED RESPIRATORY THERAPISTS

NEW LICENSES

CYNTHIA AN ABBOTT
JONATHAN ABRAHAM
JUDY GRAGG ARENA
SEON HUI BALISTRERE
NICHOLAS EVAN BINGHAM
JUSTIN BRETT BISHOP
PENNIE DARLENE BISHOP
AARON PEYTON BOSHERS
DANIEL LLOYD BREITIGAM
ALISHA FARMER BRYAN
KIMBERLY ANNE BURGESS
ANGELA MERCER BURNS
AMBER NICHOLE CAMPBELL
REBEKAH ANN LASHA CAMPBELL
YOLANDRIA WEBB CAMPBELL
ANGELA DENISE CASTON
SONYA HESSE CATES
SHARON BATES COOPER
HOPE STINNETT ELLIOTT
KIRK ANTHONY FABISH
JESSICA ALANE FARMER
LADONNA MICHELLE FIELDS
JAIME BROOKE FLYNN
AMANDA D FOWLER
SHALLUM BENJAMIN FURBUSH
CARLA FAITH GOODHEART
KATHLEEN VEIGA GRACIA
KENNI CRABTREE GRIFFIN
DENIS EVAN GRIZZLE
TONYA RUDY GUNN
ANGELA SLEMP HAYES
MARGARET-ANN VAUGHAN HAZLEWOOD
JACQUELINE LEONE HEATH
PATSY OSBORN HORNE
CHRISTINA ROOT HUGHES
JENNIFER BENNETT HURLEY
LINDSEY M JENKINS
LINDA PEARSN JOHNSON
SOMMER REA JONES
JESSICA GRAHAM LARSEN-VARNEY

DUSTIN JAY LILLY
JENNIFER LEE MACDONALD
ROBIN HALL MANUEL
TARNICE SHAW MIDDLETON
JEFFREY BENJAMIN MIESSAU
CRISTI PHILLIPS MILLER
DENVER WILLIAM MILLER
FARAH JAMA MOHAMED
JENNIFER ROBERTS MOORE
CODY BAESKENS MOREL
ERNESTINE PEREZ MOSER
SHEILA HURDLE OLDHAM
CRYSTAL LAVELLE OWEN
DAWN WATKINS OWEN
SHIRLEY GRIGSBY OWENS
TIMOTHY ALLEN PATTERSON
MARY KATHLEEN PENNINGTON
PORSHA NIAUNTE' REDICK
JENNIFER LYNN ROBBINS
JOHN RICHARD SCHLICHT
CRYSTAL DANIELLE SPENCER
WILLIAM J STADNIK
DANNA RENEE STOCKTON
LATASHA WILKES SWAFFORD
JOANNA TATUM SWALLOW
METADEL FEKADU TEFERRA
FEBI GEORGE THOMAS
JORDAY GRAY THOMPSON
RONNY LYNN TRAVIS
KIMBERLY ANN URSERY
WILIAM TIMOTHY WALKER
YANNICKA DENISE WEBB
CARMEN MAXINE WEBSTER
DANIEL RAYMOND WESSEL
MICHAEL ALAN WEST
IRENE RUTH WILKINSON
LATONYA LASHELLE WILLIAMS
MAGIN LEANN WILSON
JENNIFER PRESLEY WINBURN
KAILEY LYNN WOLIVER

REINSTATEMENTS

KANDY MELISSA BOSTWICK
KIMBERLY DAWN BOUTIS
ERNEST E GANTT

LAURIE M GREENWELL
PAUL T WALTON III
KHAWLAH LISA WILLIAMS

POLYSOMNOGRAPHIC ENDORSEMENTS FOR REGISTERED REPIRATORY THERAPISTS

JONATHAN E ANDERSON—3RD PATHWAY
CATHY RENAE MOSIER—3RD PATHWAY
WILLIAM DAVIS SMITH—BRPT
JOSEPH GOODE—BRPT

CERTIFIED RESPIRATORY THERAPISTS

NEW LICENSES

RACHEL RICHARDSON BERRY
MICHELE BROWN BLEDSOE
JESSICA BYNUM
AMANDA DENISE CALTON
PHILIP BRIAN COOTS
BRYAN ALEXANDER COX
TRAVIS LYNN DAILEY
MEGAN MARIE DANIEL
MARGOT ELIZABETH DEMETER
KENNY ELLIS
STEPHANIE JENSEN GOULD
TAWANDA LITTLE HARTON
ERICA LASHAN HENYARD
AARIEL Z KILLEBREW

DUSTIN JAY LILLY
KARLEN A LOZADA CAPRILES
JENNIFER DAVENPORT MANESS
TOMEKA YOLANDO MCCAIN
SONYA ROUSE MCMAHAN
JESICA LAWRENCE REYNOLDS
JENNIFER JOHNSON RIGSBY
JENNIFER LYNN ROBBINS
MISTY MICHELLE SELF
SAMMIE LEWIS SMITH
DANNA RENEE STOCKTON
HELEN RENEE TIPLER
LATONYA WILLIAMS

REINSTATEMENTS

ROBERT GUY HAZLETT
AYANNA SHONTEL JACKSON
STEPHANIE NICOLE JOHNSON
ELISE RAYBURN MYERS

JOSHUA JACKSON RICHARDSON
ANNITTA G ROTHENBERGER
TAMMY SAYLOR
TAMMY C WEBB

POLYSOMNOGRAPHIC ENDORSEMENTS FOR CERTIFIED THERAPISTS

PAMELA WILSON JOHNSON—3RD PATHWAY
TAMMY HEATHERLY FOX—BPRT
TERESA LEWIS MICHAEL—BPRT
ALESHIA A KLENK—3RD PATHWAY

Administrator's Report

As of February 29, 2012 the numbers of active licensees were:

- RRT—2842
- CRT—1706
- RCA—18

Board activity totals from November 8, through March 28, 2012

RRT	CRT
New licenses—81	New licenses—27
Reinstated—6	Reinstated—8
Retired—12	Retired—12
Failed to Renew—29	Failed to Renew—56

762 practitioners renewed during this period with 496 renewing online.

Board Members

Brian Cook, Hospital Administrator, resigned as he is moving out of state to accept another position. Mr. Gantt will draft a letter on behalf of reappointing Mr. Tim McGill, a former Board member, as the Hospital Administrator member to the Board.

As a matter of information, the following is a listing of Board members and the expiration date of their appointment:

Delmar Mack, RRT, Ed. D—expiration 3/31/12

Candace Partee, RRT—expiration 3/31/12

Roger Major, RRT—expiration 3/31/12

Teresa Hatcher, Consumer—expiration 3/31/11

Financial Report

Direct expenditures of \$108,810.70 plus indirect expenditures of \$116,160.74 made a total of \$224,971.44 expenditures for FY2011. Total expenditures deducted from revenue collections of \$371,235.61 for FY2011 left the Board a current net of \$146,364.17 for the fiscal year. This figure when added to the Board's cumulative carryover from FY2010 of \$286,579.67 brings the Board's current cumulative carryover to \$432,843.84. If filed in time, the Board will conduct a rulemaking hearing to reduce fees at its next meeting.

Adjournment

Respiratory Care Minutes
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There being no further business, the meeting was adjourned at 12:36 p.m.

These minutes were ratified at the May 31, 2012 meeting.